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In re Application of  
Mytych et al.  
Application No. 09/643,458  
Filed: August 22, 2000  
Attorney Docket No. \*

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**OFFICE OF PETITIONS**

DECISION GRANTING APPLICATION

This decision is in response to Applicant's "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b)" timely<sup>1</sup> filed on November 22, 2004 requesting that the Office adjust the PTA determination at the time of the notice of allowance from a determination of four hundred and seventy-six days.

Applicants' application for PTA IS **GRANTED**. The Office will adjust the PTA to reflect this decision. The PTA will be adjusted to a determination of four hundred and seventy-six (476) days.

Applicants assert that the Office correctly calculated the amount of Office delay at seven hundred and nine days (709). Applicants further assert that the 35 days reduction pursuant to 37 CFR 1.704(b) is also correct. Applicants' assert that the 650 day reduction is in error in that the reduction should have been for a period of 198 days rather than the 650 days. Applicants assert that they responded to the Notice to File Missing Parts on July 9, 2001 and concede that such response was incomplete. Applicants assert that the omission was complete with the response filed on January 23, 2002, a 198 day delay under 37 CFR 1.704(c)(7).

Applicants assertions are absolutely correct. The response to the Office notice was completed on January 23, 2002 and accordingly the delay was for the omission period beginning on July 10, 2001 and ending on January 23, 2002. The period of delay was 198 days as suggested by applicants. Accordingly, the overall correct PTA at the time of the mailing of the Office action is 476 days as suggested by applicant ( $709 - 35 - 198 = 476$ ).

After the mailing of this Office action the file will be forwarded to the Office of Patent Publication for a prompt issuance of the patent.

Any delays in issuing the application beyond four months of the payment of the issue fee will be added to the determination that occurs at the time of the issuance of the patent and will be reflected in the issue notification letter that is mailed to applicants approximately 3 weeks prior to issuance of the patent.

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<sup>1</sup>Issue fee paid on December 1, 2004.

The Office has assessed the \$200.00 fee for this application for PTA. No additional fees are required in determining this application.

Any questions concerning this decision should be directed to Kery A. Fries at 571-272-7757.

*Kery Fries*  
Kery A. Fries  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
for Patent Examination Policy

cc: Copy of Adjusted Pair Calculation